

3/7/2013 11:42 am

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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SHEET METAL WORKERS' NATIONAL PENSION FUND;
NATIONAL ENERGY MANAGEMENT INSTITUTE
COMMITTEE FOR THE SHEET METAL AND AIR
CONDITIONING INDUSTRY; SHEET METAL
OCCUPATIONAL HEALTH INSTITUTE TRUST;
INTERNATIONAL TRAINING INSTITUTE FOR THE SHEET
METAL AND AIR CONDITIONING INDUSTRY; and
NATIONAL STABILIZATION AGREEMENT OF THE
SHEET METAL INDUSTRY FUND,

ORDER
11-CV-2931 (ADS) (ARL)

Plaintiffs,

-against-

ACCRA SHEETMETAL LLC, and ORLANDO STOKES, as an
individual,

Defendants.

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APPEARANCES:

Jeffrey S. Dubin, Esq.
Attorney for the plaintiff
464 New York Avenue
Suite 100
Huntington, NY 11743

NO APPEARANCE:

Accra Sheetmetal LLC
Orlando Stokes

SPATT, District Judge.

On June 17, 2011, the Plaintiffs, five multi-employer, employee benefit plans, commenced this action, pursuant to Section 502 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. § 1132, seeking to, among other things, enforce the obligations of the Defendants to make contributions to these plans and for interest, additional interest, reasonable attorney's fees and costs of action. On October 24, 2011, the parties entered into a Settlement Stipulation Agreement, which the Court approved on November 9, 2011.

On July 19, 2012, the Plaintiffs moved for an entry of judgment against the Defendants, alleging that the Defendants defaulted under the Settlement Stipulation Agreement. On October 27, 2012, the Court referred the matter to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether the motion for an entry of judgment should be granted, and if so, (1) whether damages should be awarded, including reasonable attorneys' fees and costs, and (2) whether any other relief should be granted.

On February 14, 2013, Judge Lindsay issued a Report and Recommendation (the "Report") recommending that judgment be entered against the Defendants, jointly and severally, for a total award of \$26,105.14. More specifically, Judge Lindsay recommends that (1) this Court enforce the Stipulation of Settlement and grant the Plaintiffs' motion for entry of judgment; (2) the Plaintiffs be awarded the full amount agreed to under the Stipulation, which was \$45,909.78 less \$20,093.22 for payments made pursuant to the Stipulation, for a total amount of \$25,816.56; and (3) the Plaintiffs be awarded interest on the \$25,816.56 award at the rate of 8 ½% per annum from June 1, 2012 until July 18, 2012, for the total amount of \$288.58. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Lindsay's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Lindsay's Report, it is hereby

ORDERED, that Judge Lindsay's Report and Recommendation is adopted in its entirety. The Court grants the Plaintiffs' motion for entry of judgment and (1) grants the Plaintiff the full amount agreed to under the Stipulation, which was \$45,909.78 less \$20,093.22 for payments made pursuant to

the Stipulation, for a total amount of \$25,816.56 and (2) grants the Plaintiffs interest on the \$25,816.56 award at the rate of 8 ½% per annum from June 1, 2012 until July 18, 2012, for the total amount of \$288.58.

ORDERED, that the Clerk of the Court is directed to enter judgment against the Defendants, jointly and severally, for a total award of \$26,105.14 as set forth above.

SO ORDERED.

Dated: Central Islip, New York
March 7, 2013

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge